

**RECORD OF PROCEEDINGS
OF THE GOVERNING BODY
CITY OF GARDNER, KANSAS**

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March 15, 2021

The City Council of the City of Gardner, Kansas met in regular session on March 15, 2021, at 7:00 p.m. in the Council Chambers at Gardner City Hall, 120 East Main Street, Gardner, Kansas, with the Mayor Steve Shute presiding. Present were Councilmembers Todd Winters, Mark Baldwin, Randy Gregorcyk, Tory Roberts, and Kacy Deaton. City staff present were City Administrator James Pruetting; Deputy City Administrator Amy Nasta; Finance Director Matthew Wolff; Police Chief James Belcher; Utilities Director Gonzalo Garcia; Parks and Recreation Director Jason Bruce; Community Development Director David Knopick; Public Works Director Kellen Headlee; City Attorney Ryan Denk; and City Clerk Sharon Rose. Others present included those listed on the sign-in sheet and others who did not sign in.

CALL TO ORDER

There being a quorum of Councilmembers present, Mayor Shute called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

Mayor Shute led those present in the Pledge of Allegiance.

PRESENTATIONS

PUBLIC HEARINGS

PUBLIC COMMENTS

Dennis Watson, 670 S. Mulberry, said it is good to see the open forum return. He offered his thanks to the city for excellent and timely snow removal. His neighborhood was back in operation quickly. He noted the national condition and the division in the nation. A group of his friends is praying for the nation and the city. They are praying for unity and peace within the city. They appreciate and respect what the city does. Mayor Shute said prayers are greatly appreciated and taken to heart.

CONSENT AGENDA

1. **Standing approval of the minutes as written for the regular meeting on March 1, 2021**
2. **Standing approval of City expenditures prepared February 26, 2021 in the amount of \$819,386.51; March 1, 2021 in the amount of \$1,627,390.22; and March 5, 2021 in the amount of \$1,072,688.24**
3. **Consider authorizing the execution of a construction contract for the Hilltop Ridge Benefit District Projects**
4. **Consider a recommendation to appoint City of Gardner representative to the Kansas Municipal Energy Agency Board of Directors**
5. **Consider authorizing the execution of a service contract with Denali Water Solutions, LLC. for the 2021 Hillsdale WTP Waste and Residuals Pond Cleanout Project**

Councilmember Baldwin made a motion to approve the Consent Agenda.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

PLANNING & ZONING CONSENT AGENDA

COMMITTEE RECOMMENDATIONS

1. **Consider adopting an ordinance incorporating proposed Land Development Code amendments**

Community Development Director David Knopick said this is a series of administrative amendments. Knopick gave a presentation on the proposed amendments. Staff had a public hearing at the Planning Commission in February. They addressed six different topic areas. Knopick summarized the areas and proposed changes, which

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were also provided in the council agenda packet. There were no public comments at the public hearing. Planning Commission has recommended approval of the proposed amendments.

Councilmember Gregorcyk thanked staff for this item. He noted that predecessors did a lot of work on this. He noted the tree item; a tree can go either between the curb and sidewalk, or on the opposite side of the sidewalk parallel the curb and not between the space. Director Knopick confirmed. The discussed only including the area between curb and sidewalk, but a graphic in the LDC shows a strip on the other side of the sidewalk. It gives them more flexibility regarding street trees. Gregorcyk asked if a house is built in a new subdivision, would the house tree count as the tree just discussed. Knopick said no, not currently. There is a requirement for a front yard tree that is in addition to the street trees. Gregorcyk asked if there is any pre-site plan meetings with developers. Knopick encourages two. One is specified in the code. A pre-application meeting is required so staff can make comments before they make their formal application. Knopick has been encouraging developers to come in during a discovery stage, but that's not set by code. It's costly to bring something for pre-application. Staff will meet with them at the discovery stage for any red flags early in the process and get as much information to them and their professional teams. Once they put pen to paper, they start incurring costs. The intent is to have two meetings before a formal application is made. Staff doesn't want to bring partial applications forward because the review process only allows time for one iteration, maybe two, but that is very expensive. Gregorcyk was made aware of that and spoke with developers who were very positive about the process. It creates a good partnership.

Councilmember Winters thanked the staff. How often will this be updated, once a year? Director Knopick said at least once a year or more frequently. Staff will be responsive as issues come up. Some items can be dealt with right away; others may require study session.

Councilmember Baldwin said he is glad to see some things that came up in recent years are being addressed.

Councilmember Deaton said before she was appointed, she was on Planning Commission. They had issued a CUP for the mobile home park. With this change, will they need to come back? Director Knopick said they have been approved so the CUP will stay in effect. If council adopts the ordinance and amendments and it is published, they will be held to that as the standard. They will not have to renew their CUP.

Mayor Shute asked about the discrepancy in zoning classifications for a manufactured micro home community. Director Knopick said staff has drafted some changes to that section of the code that will change the meaning of that district. It won't be manufactured mobile home micro home community district; it will be residential small format home district. It will be discussed with the Planning Commission, but he wanted to set up definitions. It will change regulations to give flexibility to the size of house and size of lot. These will be homes under 1500 sq ft on lots that are proportional for the size of the home. Shute asked if there will be flexibility for coverage on the lot. Knopick said it's important on the smaller formats to allow flexibility. There are developments where the lot size is 5 feet around the home. It wouldn't meet the city's setbacks. There are many things that will come through the development review process, and they have the ability to deviate from them. They will come with more amendments. Shute asked if the administrative adjustments are just for planned project or unplanned and planned, and is there going to be a different standard within the planned developments. Knopick said in residential categories, they have development plans. They have 100% discretion. There are things they can deviate from and not enforce in the development plan, but does need to meet an equal to or better standard. That's what the Planning Commission assesses when applicants make a request or deviate. When there's no development plan required or no administrative site plan necessary, the minimum standards stay in place so the city maintains a certain quality of development proposal. The layering system of discretion is important, is 10% enough for staff, 20% enough for Planning Commission? They will see how this works. A set back of .5 ft or 1 ft doesn't seem like much, but when it may be 10% of all the spaces in a parking lot, it's a loss of 10 spaces or more. For the development plan, there is discretion built in to the deviation request and approval process, and there's not a lot of different planning. Single-family homes require plot plans. They are looking at it as an administrative approval process. If the developer wants more than staff can grant them, they will funnel them through the appropriate process. Shute said they need to discuss whether the existing land development code and design standards are weighted too heavily to single family. It's shelved for now, but will need to discuss it in the near future. Knopick will have worksessions with Planning Commission.

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Councilmember Gregorcyk made a motion to approve adopt an ordinance amending the Land Development Code of the City of Gardner, Kansas by amending sections of Title 17 of the Gardner Municipal Code.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2695.

Deaton:	Yes
Winters:	Yes
Gregorcyk:	Yes
Roberts:	Yes
Baldwin:	Yes

OLD BUSINESS

NEW BUSINESS

COUNCIL UPDATES

Deputy Administrator Nasta reported they are working on an update for the Parks Master Plan. As ex-officio for the PRAC, Council President Winters will be participating in the task force meetings, along with various members of staff and community stakeholders. The meetings will be scheduled soon, and a community survey will be sent out in the near future. The master plan will need to go through PRAC, Planning Commission, and Council. They hope to do that by late summer or early fall.

Mayor Shute asked Finance Director Wolff for a clarification on rates and dollar amounts with regard to gas and electric. City Administrator Pruetting said there was consensus to put together a subcommittee at last meeting. Their first meeting is tomorrow. Council Vice-president Baldwin is the ex-officio. Shute said there are additional costs that have come in. Pruetting said the intent of GRDA was to spread cost over years.

Mayor Shute asked about Planning Commission. City Clerk Rose sent out applications for review, and is waiting to hear back from the interview team to set up interviews.

Director Bruce said youth soccer starts soon, and staff is preparing for the first baseball tournament of the season. Shute asked about the pool, have they received any more guidance? Bruce said they received information from the county last week. Staff will begin looking at what other agencies are doing to move forward

Director Knopick reported that the Planning Commission is meeting next Monday evening.

City Administrator Pruetting said during the recent appointment process for council, there was some question about terms and language in the charter and the Governing Body Rules of Procedure. Before staff works on clarifying the language, he wants to make sure the direction is clear to follow precedent of filling the term of the seat. Mayor Shute asked for consensus. Councilmember Roberts thinks it should be through the next election, not the term for the seat. That would get someone installed sooner that was voted in. Roberts said she was appointed before, and residents treated her differently than when was elected. It's better representation to do it the next election. Councilmember Deaton said as the appointed person, she understands. If there are two people appointed in a cycle, it becomes a continuity issue, so she supports filling for the term. Councilmember Gregorcyk said it needs to be at the behest of the citizens through an election process. Councilmember Baldwin said having the citizens make the decision is best, but the problem is if they have multiple appointments, there is an issue with continuity. It could change the entire dynamic in one election, instead of having it staggered two and three like now. Staggering is best to keep the body working forward instead of large transitions. Councilmember Winters said staggering is important, but is there anything in the middle. Shute asked if he meant a special election. If someone is appointed to the remaining three years of the term and there's an upcoming election, they can have a special election, but it would only be for two years so the replacement would only serve two years. Deaton asked, since they are at-large, who gets the two year term? Shute said the person in the special election. Anyone with two years left in a term would stay until the next regular election. Anything more than two years would stay until a

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special election. Gregorcyk said the special election is based on appointment. Shute agreed, and said it would only be for that position, but the actual term still stays with that position. As an example, if an appointment is made in January of this year, and an election is in November, there would be a special election for the appointed position in addition to the regular election for a mayor and two council seats. Whoever wins the special election for the appointed seat would serve two years until the next regular election for that seat. Gregorcyk asked Pruetting to examine precedence. Deaton said if 5 people wanted to run for council, they would file for the two regular seats; those interested in the special election would file only for the special election of the two-year term. Shute said this would maintain the staggering. Roberts asked if they would have the special election at the same time as the regular election. Shute confirmed they would happen at the same time. It would be fair and foster continuity. Gregorcyk said there's precedence out there. Gardner isn't the only community coming to this conclusion. Shute said staff can research options. Shute clarified this is for future appointments, not the most recent one.

City Administrator Pruetting said the air show is planning their event July 2-4. This overlaps with the city's event, but staff have secured the parking they need. The city will be supplementing with law enforcement for the air show, but will be fully staffed for the city's event. Mayor Shute noted this will be during the Main St construction. Pruetting said the letting for 56 isn't until mid-July. Councilmember Gregorcyk noted the economic impact, referencing previous Blue Angel air shows lead to \$700 per participant on the economy of the community. It will be a large boon for the city. Pruetting said that will depend on parking. They are parking attendees at Garmin and the Olathe District Activity Center and shuttling in.

Mayor Shute addressed correspondence that was sent to the Johnson County Board of Commissioners last week regarding fire district appointments. County commissioners are free to make those appointments. The issue that he, the council president, and vice-president had, those individuals are elected representatives of the council, is that they did not have time to have special meeting to get input from all council members. Anyone else on the letter would have constituted a KOMA violation. They were informed of an action that directly impacts the jurisdiction two days before the final action took place at the BOCC meeting. Shute had discussions with the commissioner and was assured that when decisions were to be made on the board that the mayors of those cities would be consulted on those appointments. That did not happen with Gardner. It did happen at Edgerton and Spring Hill. Edgerton's mayor recommended an appointment. Spring Hill declined, because their mayor was not going to run for reelection and did not want to make that decision when that seat wouldn't be filled until after the contract started. Gardner was not consulted, that's why the letter was written. It wasn't about who was appointed, but how it happened. They were being dictated to by the county. It was that they weren't consulted, like others. It had nothing to do with who was appointed, but that the city wasn't consulted in the appointment process. Councilmember Roberts asked what is the leadership team, who is on it, when do they meet, what is discussed, are any actions take, and what other teams are there that aren't shared? Shute said the leadership team has always been the mayor, president and vice president of the council. They are in the line of succession, but they speak for the governing body in cases when they can't have a quorum because of KOMA. Roberts said she had not heard of the leadership team before. When they elected the president and vice president, they aren't saying these people will make decisions or send letters on the governing body's behalf. It's for succession, not a decision-making board or communication board. Councilmember Winters said the leadership team went back to a previous city administrator. Roberts hadn't heard of it. They get emails regarding appointments that ask for comments or concerns. There are emails and communications that they base decisions on. Shute said if there's consensus that going forward emails sent to the county commission council will be informed he would do that. Roberts asked how many emails there are. Shute said this was the first one that he's aware of. What they were told was that the mayor would be consulted, and if he were consulted, he would consult the governing body. Edgerton was asked, and they met in chambers and selected someone. Roberts doesn't dispute that the city should have been contacted, she was unaware of the leadership team. Shute said they needed members of council on the letter to give it standing to make their case. There aren't other teams; they don't run in secrecy. They reacted to a situation when they were blindsided. They were never told by the county commissioner or chair that the existing representative was being replaced. The city already had a representative on the fire board. Councilmember Gregorcyk said Dr. Cook has not been replaced. Shute said he hasn't because the city fought

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that. Shute asked the commissioner if she was replacing Dr. Cook. She initially said yes. Shute asked if she contacted Dr. Cook about the appointment, and she hadn't. He suggested she should do that before replacing him. Shute said that's when other decisions were made. Spring Hill's position on the fireboard is being taken by Gregorcyk or Cook. He doesn't mind having two Gardner reps, but it's unfair to Spring Hill. They deserve representation. Gregorcyk noted he was the one appointed. He finds it interesting that the three upset about the commissioner's appointment decided a self-labeled leadership team required consultation. The rest of them haven't heard of this leadership team. He commented in the newspaper that the president and vice president are purely for succession. He doesn't think the 'leadership team' term should be used moving forward. The 'leadership team' term in a municipality that's supporting the community through policy governance doesn't make sense. Winters notes the letter was from the leadership team, but they were asking that the entire governing body be consulted. Gregorcyk doesn't think the term 'leadership team' should be used. Shute said they won't use it. Councilmember Deaton said she has heard of the leadership team before, sitting in the audience. Gregorcyk said the term shouldn't be used. Shute said they won't use it. Shute noted that Gregorcyk was asked for comment by the newspaper, and the author of the story said that Shute was also asked for comment, but Shute never received any correspondence. They misrepresented his stance. This discussion is because they were blindsided and found out two days before the final action on the meeting. They should have been contacted by the county commissioner or the individual seeking appointment of their interest in representing Gardner on that board. That individual went behind the governing body to get that appointment. Councilmember Baldwin noted he is new to the leadership team, and it's existed for a while. He said the county commission dropped the ball. The fire board seems similar to a water district, which is elected. The fire board's decisions have a taxing impact. They should be elected. They should have codified when they changed the board size from three to five, getting representation from each of the cities under FD1, plus one from an unincorporated area and one at-large. The only requirement they currently have is the appointee has lived here for three years, no age requirement, no experience, and no criminal history. The commissioner refused to cite any criteria used for her appointment. The residents should push the county to make changes to improve this board. Since it's appointed, the commissioner can select who she wants, but another commissioner voted no on the appointment due to lack of resume, not of the person, but the transparency. The other commissioners were rubber-stamping the appointment. Why the commissioner spoke with Spring Hill and Edgerton mayors, but not Gardner, is interesting. Was it because it was an appointment she could make and Councilmember Gregorcyk lobbied for it, so she didn't feel the need to reach out to the city? If so, that's a negative first interaction. Commissioner Allenbrand was supposed to address the governing body a few meetings ago and canceled; that would have been a good time to mention the fire board appointment. Where was her announcement to all of District 6 explaining the fire board was expanding and positions were open? She doesn't have an obligation to solicit potential appointees. The city of Gardner wasn't solicited, referring to the residents. Baldwin asked why Gregorcyk didn't mention it on the dais or on social media. Baldwin said it has appearances of maneuvering behind residents' backs. Allenbrand had asked other cities for recommendation, not Gardner. Baldwin would have suggested not choosing from the governing body, but opening the recommendation up to residents like other appointments. Not notifying the city is one thing, but for the entire city to not be notified is shameful. It's taxation without representation. The new appointee owes an explanation to the residents as to why he will be a good representative. He can be a liaison from the governing body and the fire board and provide updates. Gregorcyk said those are valid questions, and he recommends contacting the commissioner directly. She is scheduled to visit with council April 5. The fire district levied their mills to build a new firehouse in Edgerton. Gregorcyk didn't disagree with the firehouse based on service area, but agrees with Baldwin that they had taxation without representation. Gregorcyk talked with Pruetting and Shute about it and vocalized it. He did not know at that time that the commissioner intended to change the fire board. Gregorcyk was called to meet with Chief Kirk and told him of concerns with the lack of representation. Gregorcyk didn't know who Dr. Cook was. Gregorcyk talked with Chairman Eilert on the phone who put him in touch with the commissioner. They had similar ideas about the lack of representation. The commissioner asked him as a citizen if he would be on the fire board. He said he would follow processes and put in an application. He applied, and didn't know who else the commissioner may have been talking with. Gregorcyk looks forward to providing representation to the entire city, and to sharing information in a legitimate way. By no means was this a maneuver. That's the way it was perceived. The leadership team comment is appalling, as much as they perceived this as a maneuver. Gregorcyk

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encouraged Baldwin to get his questions to the commissioner. Baldwin said this wasn't about the 'who' but the what. It could have been Gregorcyk applying as a citizen, and he doesn't have to tell anyone he applied. Baldwin said it's not good leadership from an elected official of the city to not share that another taxing authority, another elected body, is doing something that affects the citizens. Shute noted that the letter referenced was public record. The application filed for the position was never opened to the public. Gregorcyk didn't know about the letter until he watched the Board of County Commissioners meeting. How was it public? Shute said it was read publicly to the board. They drafted the letter the day before the board meeting. Gregorcyk said it wasn't circulated through the governing body represented by the leadership team. The commissioner who declined to vote for him said she had received the letter and commented about it. Until that time, he didn't know it existed, if it was made public. Shute said it became public record as soon as it was submitted to the county. Gregorcyk clarified if it was known to exist, it would become public. Roberts said in the future, if letters are sent, could they send it through the rest of the governing body. She didn't know about it until she read the newspaper. Shute said they can send it through the city clerk. Roberts said it should be made public to residents. Shute said they can do that. They ran out of time. Winters said this is the first this has happened. Roberts said they are talking through it so there isn't confusion next time.

Councilmember Deaton said it was good to see they are getting bids for big trash day. There's a lot of discussion on social media. She wanted to communicate to the citizens that they are getting bids, but that doesn't guarantee it will happen.

Councilmember Gregorcyk thanked everyone for their input. He never intended to jade the process on behalf of the county commission. Gregorcyk will share an email he received from Lori McClintock. She has lived in Gardner over 30 years. She supports the Gardner News and the use of taxpayer dollars to support the Gardner News. Gregorcyk noted his excitement that they are looking to potentially open the pool. The pool and big item trash day are big issues.

Mayor Shute said they disagree from time to time, but they continue serving the people of the community. They have discussions out in the open, and then move on and continue to work to make Gardner a better place for everyone.

ADJOURNMENT

There being no further business to come before the Council, on a motion duly made by Councilmember Gregorcyk and seconded by Councilmember Winters the meeting adjourned at 8:14 p.m.

City Clerk

City of Gardner, KS

Council Actions

March 15, 2021

The City Council took the following actions at the March 15, 2021, meeting:

1. Approved the minutes as written for the regular meeting held March 1, 2021. (Passed unanimously)
2. Approved City expenditures prepared February 26, 2021 in the amount of \$819,386.51; March 1, 2021 in the amount of \$1,627,390.22; and March 5, 2021 in the amount of \$1,072,688.24. (Passed unanimously)
3. Authorized the City Administrator to execute a contract with Emery Sapp and Sons for the Hilltop Ridge Benefit District Projects for a total of \$723,143.39 and authorize the City Administrator to approve construction related Change Orders up to an additional \$72,000.00 (10%). (Passed unanimously)
4. Reappointed Matt Ponzer as Director #1, with voting rights, on the Kansas Municipal Energy Agency Board of Directors for a term expiring April 30, 2023. (Passed unanimously)
5. Authorized the City Administrator to execute a service contract with Denali Water Solutions, LLC for the 2021 Hillsdale WTP Waste & Residual Pond Cleanout Project, in the amount of \$54,779.00. (Passed unanimously)
6. Adopted Ordinance No. 2695, an ordinance amending the Land Development Code of the City of Gardner, Kansas by amending sections of Title 17 of the Gardner Municipal Code. (Passed unanimously)